

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

MARYL PACIFIC CONSTRUCTION, INC.,

Respondent.

CASE NO. OSH 2010-24

ORDER NO. 406

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board) on November 15, 2010 and attended by Herbert B.K. Lau, Deputy Attorney General, for Complainant, and Brian G.S. Choy, for Respondent, IT IS HEREBY ORDERED THAT:

A. The issues to be determined at trial are:

Citation 1, Item 1: HAR § 12-110-2(f)(1)(A)

Whether the characterization as “Serious” and the associated penalty of \$2,500 of Citation 1, Item 1, resulting from Inspection No. 313078719, was valid and proper.

Citation 1, Item 1 alleged:

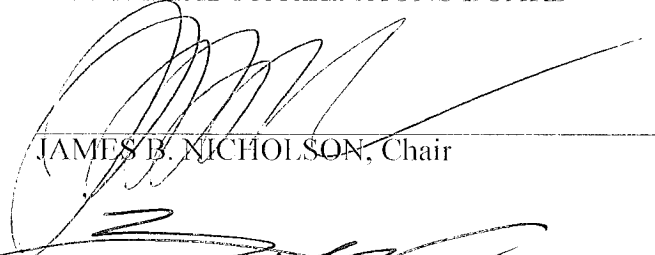
HAR § 12-110-2(f)(1)(A) was violated because:

The employer, as the general contractor for the project, did not assure that employees of a steel erection subcontractor complied with the requirements of the standards of part 3, and particularly with the requirements for fall protection. As a result of the general contractor’s failure to assure compliance by the subcontractor’s employees, the subcontractor foreman was not protected from falling 22’ to the lower level and incurred fatal injuries.

2. The Respondent reserved the right to assert any affirmative defenses pending further discovery. Respondent shall assert any affirmative defenses by **December 20, 2010**.
- B. The deadline for the parties' final naming of witnesses is **December 20, 2010**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with each witness's addresses and the general subject to which the witness will testify, to the other party and to the Board by this date.
- C. The parties may engage in discovery without prior motion or showing of good cause. The discovery cutoff date is **January 20, 2011**. The discovery cut-off is the date by which all responses to written discovery, including requests for admissions, shall be due and by which all depositions shall be concluded. The parties are advised to initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this requirement.
- D. Trial in this matter is scheduled for **February 22 - 23, 2011 at 9:00 a.m.** in the Board's hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The trial may be continued by the Board until completed.
- E. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, November 16, 2010.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



NORMAN K. KATO II, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Brian G.S. Choy, Esq.